

# COUNTY OF LINCOLN

## New Mexico Regular Meeting Board of County Commissioners

Preston Stone, Chair  
Dallas Draper, Vice Chair

Thomas F. Stewart, Member  
Elaine Allen, Member  
Lynn Willard, Member

### Minutes Tuesday, March 15, 2016

Minutes of the Regular Meeting of the Lincoln County Commission held at 8:30 AM on March 15, 2016 in the County Commission Chambers, Lincoln County Courthouse, in Carrizozo, New Mexico.

#### 1. Call to Order

Chair Stone called the Regular Meeting of the Board of County Commissioners to order at 8:29 AM.

#### 2. Roll Call

##### Roll Call.

**Present:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

Others present included Nita Taylor, County Manager; Alan Morel, County Attorney; and Rhonda Burrows, County Clerk.

#### 3. Invocation

The invocation was presented by Chair Stone.

#### 4. Pledge of Allegiance

- a. Pledge – US Flag
- b. Salute – NM Flag

#### 5. Approval of Agenda

**Motion:** Acceptance of the Agenda and authorized the Chair to move items as necessary,

**Action:** Approve, Moved by Commissioner Draper, Seconded by Commissioner Stewart.

**Vote:** Motion carried by unanimous vote (summary: Yes = 5).

**Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

#### 6. Approval of Minutes

February 16, 2016 - Regular Commission Meeting

**Motion:** Approve the minutes of the February 16, 2016 Regular Meeting; **Action:** Approve, Moved by Commissioner Stewart, Seconded by Commissioner Willard.

**Vote:** Motion carried by unanimous vote (summary: Yes = 5).

**Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

#### 7. Approval of Consent Agenda

- a. Payroll/Accounts Payable/Budget/ Expenditures
- b. Treasurer's Financial Report for the Month ending February 29, 2016
- c. Annual Renewal Application for FY 2016 Law Enforcement Protection Funds
- d. Volunteer Firefighters Annual Reporting Forms

**Motion:** Approval of Consent items as presented, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Draper.

**Vote:** Motion carried by unanimous vote (summary: Yes = 5).

**Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

**SEE EXHIBIT A:** Copies of Consent Items are attached hereto in reference thereto made a part hereof.

#### **8. Community Health Council: Presentation by Shannon Dictson**

Shannon Dictson representing the Community Health Council provided an update on the group's current programs and activities. Ms. Dictson reminded local Community Health Councils received funding support from the State for many years but that funding was discontinued several years ago. Ms. Dictson stated the Council received funding support from Lincoln County for one year but received no funding for the past three years.

Ms. Dictson provided a packet of information including the current membership roster and the Health and Wellness Guide prepared as a resource guide for local residents. Ms. Dictson stated Council priorities included youth engagement, health and wellness promotions, sponsorship of a mobile food pantry, and ongoing identification of local health issues. Ms. Dictson stated the Community Health Council recently conducted a survey to gather community input and identified "access to care" as a priority issue.

Ms. Dictson discussed the Health Council's upcoming annual "Maze of Life". Ms. Dictson stated the Health Council conducts the interactive exercise for local 8<sup>th</sup> grade students to educate them about the impact of negative choices. Ms. Dictson also discussed the Health Council's annual Health Fair which includes approximately eighty vendors and last year attendance of seven hundred residents.

Ms. Dictson stated the Health Council planned to work with Lincoln County Transit on options for transportation for seniors in response to the identification of "access to care" as a community priority.

#### **9. Forest, Land & Natural Resources Matters:**

##### **a. Smokey Bear Ranger District**

Ms. Taylor stated Heather Noel, the newly appointed District Ranger was unable to attend but had provided a brief update. Ms. Taylor stated recent activities included the addition of seasonal firefighters and strengthening fire prevention education in preparation for fire season.

##### **b. Cibola National Forest**

Ms. Taylor reported two key events in the Cibola Forest Plan revision were scheduled for March. These were the Cibola National Forest and National Grasslands Shared Stewardship Workshop and the Draft Forest Plan Development Retreat. Ms. Taylor stated she plans to attend portions of both events and extended an invitation to any interested Commissioner.

##### **c. Community Forester**

Rick Merrick, Community Forester with South Central Mountain Resource and Conservation District (SCMRCD) advised he would host a booth, during the upcoming Ruidoso Home and Garden Show, to promote the Firewise Community; the "Ready, Set, Go"; and CFRP programs. Mr. Merrick reported the Eastern New Mexico University Speaker Series was ongoing with plans for Forest Service Personnel to provide an update on fire weather and available resources.

Mr. Merrick reported Ranches of Sonterra residents continued to participate in the Firewise Community program and received some grant funding to purchase Evacuation Route signage. Mr. Merrick stated Rainmaker residents were considering formation of a Firewise Community committee. Mr. Merrick also stated he utilized a New Mexico Association of Counties grant award to acquire equipment to enhance his Firewise Community presentations.

Mr. Merrick reminded the Sacramento Wood Industries Summit was scheduled in two weeks. Mr. Merrick stated activities scheduled with the Summit included a tour of three thinning projects.

**d. Office of State Engineer-Water Issues**

Ms. Taylor reported no new applications for water transfers were posted this month on the State Engineer's website. Ms. Taylor reminded two notices were posted last month including Application Number 0867-8 by the Emile Living Trust c/o Russ Guillitte for a new point of diversion. Ms. Taylor stated since last month's meeting affected residents had filed protests objecting to the requested "Emergency Authorization", the lack of prior submission of the request to the New Mexico Acequia Commission, and the addition of a new diversion resulting in impairment of existing water rights.

**10. FEMA Update – Road Prioritization DR 4197 – 4199: Presentation by King Industries**

Ms. Taylor discussed prior presentations regarding the identification of FEMA Disaster Recover Projects for two rain events in 2014. Ms. Taylor reminded Lincoln County contracted with King Industries to assist with the evaluation of road conditions and development recommendations for consideration by the Board of County Commissioners for FEMA projects.

Ms. Taylor stated four projects were previously identified for completion during this fiscal year. Ms. Taylor stated the total required County match for funding these projects was \$55,341.27. Ms. Taylor stated the County's Disaster Relief Fund's current balance of \$344,711 was adequate to cover the expenditure.

Ms. Taylor also noted after the identification of work projects for the 2014 FEMA declaration, the County experienced a severe snowstorm resulting in the State of New Mexico and Lincoln County issuing a disaster declaration. Ms. Taylor stated a new federal disaster declaration was pending for the snow event and commented on the fact some roads were impacted by both events.

Justin King of King Industries presented a Recovery Project Team Overview detailing the funding process for FEMA projects including Federal reimbursement of 75% of actual expenses, the State's 12.5% match; and the required 12.5% County match. Mr. King reminded all federal FEMA funds allocated were administered by the State of New Mexico for which the State received a 3.5% administration fee. Mr. King stated King Industry's role was to guide the County through the process and to help ensure funding was appropriately utilized to assure FEMA reimbursement for work projects completed.

Mr. King also discussed the recent winter storm event which impacted approximately 200 miles of County roads. Mr. King stated a Federal Disaster Declaration for winter storm "Goliath" was pending but if issued, Lincoln County could reprioritize certain road projects previously identified under the 2014 Disaster Declaration. Mr. King suggested this reprioritization would extend the timeline for work completion and also the timing of the necessary County match.

Mr. King presented a detailed analysis of work projects identified for the 2014 FEMA Disaster Declaration and provided recommendations for prioritization.

There was a lengthy discussion regarding the prioritization of projects, the associated funding requirements, and the benefits of utilizing private contractors versus the County Road Department.

**13. 9:30 A.M.: PUBLIC COMMENT AND OTHER BUSINESS FROM COUNTY OFFICIALS**

Commissioner Draper announced both he and Chair Stone were currently running unopposed for reelection in the 2016 Primary Election in their respective County Commission Districts.

Commissioner Stewart reported on his attendance at a day long Joint Land Use Study and Military Coordination Meeting in Las Cruces. Commissioner Stewart reminded the final opinion on the Zia Transmission Line from the New Mexico State Land Office was still pending. Commissioner Stewart stated the Las Cruces Office of the Bureau of Land Management (BLM) was working to complete an "Organ Mountain Desert Peaks Environmental Impact Statement" after prior approval of the proposed site for the Zia Transmission Line. Commissioner Stewart further reported Las Cruces BLM was also working on "mutual aid" fire suppression agreements with White Sands Missile Range and Holloman Air Force Base which would encompass the area near Oscura. Commissioner Stewart also discussed the development of the "3<sup>rd</sup> Offset" by White Sands Missile Range (WSMR). Commissioner Stewart explained WSMR's "1<sup>st</sup> Offset" was development of nuclear weapons during the 1940's to 1950's, the "2<sup>nd</sup> Offset" was development of precision guided munitions during the 1970's to 1990's, and the "3<sup>rd</sup> Offset"

would focus on robotics and hypersonic testing. Commissioner Stewart noted this new focus required a larger "testing corridor" and the military planned to work with private land owners to secure sufficient testing areas.

Chair Stone stated he had contacted the State Engineer's Office regarding the Application by Russ Guillitte to create a new point of diversion on the Rio Ruidoso. Chair Stone stated he questioned the need for "Authorization of Emergency Use" and the possibility of "impairment" to other water right holders. Chair Stone stated the State Engineer's staff expressed a distinct lack of concern about both of these conditions. Chair Stone urged residents of Lincoln County to closely monitor the actions of the State Engineer's Office.

Paul Baca, Assessor informed his office would mail the annual Notices of Valuation to property owners on April 1, 2016. Mr. Baca reminded property owners of the thirty day protest period from April 1, 2016 to May 2, 2016 during which owners may contest valuations or file for various property tax exemptions. Mr. Baca encouraged residents to review the notices and take advantage of the protest period and commented adjustments to valuation were not generally permissible under State Statute after this protest period. Mr. Baca stated he was also working to have an employee on site at Lincoln County's Ruidoso Substation during the protest period to assist residents with questions about valuations and to file exemptions.

Beverly Calaway, Treasurer reported Tim Eichenberg, New Mexico State Treasurer visited the Treasurer's office and provided information regarding revenues in the State of New Mexico. Ms. Calaway stated Mr. Eichenberg informed the State Treasurer's "Cash on Hand" was down \$500 million from the previous year. Ms. Calaway noted a quick review at the end of February revealed the County Treasurer's "Cash on Hand" balance was \$22,311,365 compared to a balance of \$18,155,544 last year. Ms. Calaway noted the receipt of \$1,700,000 in FEMA funding and an increase in the assessed Taylor Grazing Fees were the principal contributors to the increase in funds.

Robert Shepperd, Sheriff informed he spoke with the State Treasurer regarding House Bill 560 also known as the "Forfeiture Bill" and learned all agencies in New Mexico were noncompliant with the bill which requires agencies to transfer forfeited property to the State Treasurer. Mr. Eichenberg stated the State Treasurer's Office had refused these transfers due to a lack of resources to accept, store and dispose of forfeited property. Sheriff Shepperd reported the Sheriff's Department's new dispatch radio equipment was installed and invited the Commissioners to view the new equipment. Sheriff Shepperd informed he acquired a forklift through the military surplus program, County departments may use at no cost.

Mike Anaya introduced himself as a candidate for Senate District 39. Mr. Anaya stated Senate District 39 was comprised of six counties including Lincoln County and the district was one of the largest Senate Districts in the State. Mr. Anaya discussed his background as a rancher and electrical contractor. Mr. Anaya stated he served as a Santa Fe County Commissioner for 8 years, was President of the New Mexico Association of Counties for two years, and also served some time as the Assistant Land Commissioner.

David Ceballos, District Attorney reported on his request for additional funding from the State Legislature for the District Attorney's office. District Attorney Ceballos stated while the request was initially denied he was subsequently able to secure a 6% increase in funding for personnel services in the Twelfth Judicial District Court. District Attorney Ceballos stated he recently learned of local concerns about the investigation and prosecution of High Intensity Drug Task Force Area (HIDTA) cases. District Attorney Ceballos stated HIDTA provided \$239,000 in funding to the District Attorney's office and after meeting with Task Force members he was able to secure that funding. District Attorney Ceballos extended an invitation to the Commissioners and all Lincoln County Elected Officials to attend an open house during the next Commission Meeting or they may arrange a separate day.

#### **10. FEMA Update – Road Prioritization DR 4197 – 4199: Presentation by King Industries (continued)**

Mr. King continued his presentation and provided additional information regarding the use of private contractors to complete road repair versus utilizing the County Road Department to complete projects.

There was discussion about the de-obligation of particular work projects from the 2014 Disaster Declaration in order to re-obligate the projects as a part of the anticipated new disaster declaration for the snow storm.

Chair Stone reminded Joel Bonnell, Road Superintendent of prior discussions about the Road Department establishing a ten year road maintenance plan. Chair Stone questioned Mr. Bonnell if the Road Department were to implement road maintenance projects in each district beginning with the worst roads, whether it would take the estimated 10 to 15 years to complete repairs as detailed in the King Industries presentation.

Mr. Bonnell stated if the Road Department were to prioritize road repair and restoration it could possibly be a shorter time frame. Mr. Bonnell stated however, he would not recommend the County complete the required hazard mitigation work which would shorten the original overall time frame.

Commissioner Stewart reminded FEMA would not fund the projects unless hazard mitigation measures were performed to prevent future disasters.

Mr. King discussed the various application options for hazard mitigation on dirt roads and noted the Bionic Soil Solutions option presented was identified by FEMA as the best mitigation option for roads impacted by water.

Chair Stone inquired about the current County budgeted match for the FEMA projects and whether those funds would revert to the General Fund if not utilized for FEMA projects.

Punkin Schlarb, Finance Director reported \$354,000 was currently budgeted in this fiscal year as the County match for FEMA funding. Ms. Schlarb stated as of the end of February the County held a total of \$650,374.42 in cash available for FEMA projects. Ms. Schlarb stated there were some additional revenues and expenses expected but any remaining funds could revert to the General Fund.

Chair Stone clarified Lincoln County had already received \$1.7 million in FEMA funding which was held in a separate fund.

Ms. Schlarb concurred and reminded should the Commission chose not to proceed with the FEMA projects the County would return the \$1.7 million.

Ms. Taylor reminded during the budget process last year there was a review of the proposed FEMA projects and the required budgeted match. Ms. Taylor stated during the review the budgeted amount was reduced to meet only the required funding for the first year's work. Ms. Taylor acknowledged the overall project list was large and stated the projects were being presented incrementally with the current budgeted amount sufficient to meet the roads identified

Commissioner Stewart clarified individual work projects completed were reimbursable by FEMA and at any point in the future the Board of County Commissioner could decline to appropriate the match to continue the process.

Mr. King concurred but clarified once an individual project was started it must be completed to qualify for FEMA reimbursement.

There was a general discussion about the allocation of the currently funded County match to complete particular project worksheets to obtain full federal and state funding for those roads.

Ms. Taylor stated she and Mr. King would provide detailed answers to questions raised today during the next Regular Meeting. Ms. Taylor reminded the request this month was for the four specific projects for Nogal/Alto area, Carrizozo area, and Capitan area requiring a total County match of \$147,310.75.

Chair Stone expressed personal concern about the logistics of completing these FEMA projects and in particular with the "escalation of costs" associated with federal projects. Chair Stone suggested the cost escalations on all federal projects contributed to the nation's rising national debt. Chair Stone expressed belief additional work and maintenance by the Road Department would restore road conditions.

Commissioner Stewart suggested an analysis of costs per road to assist with determination of priorities. Commissioner Stewart stated while the Road Department might restore the roads over time the Road Department was not equipped to perform the Hazard Mitigation efforts required by FEMA for areas which were damaged by floods in the past. Commissioner Stewart suggested sticking to a "preauthorized match" for project completion.



Commissioner Draper clarified today's decision was whether to commit \$147,310.75 of funds budgeted last year towards the County match for the first four "recognized" projects identified last year.

**Motion:** Approve \$147,310.75 for the completion of the FEMA projects identified, **Action:** Approve, **Moved by** Commissioner Draper, **Seconded by** Commissioner Stewart.

**Vote:** Motion passed by roll call vote (summary: Yes = 3, No = 2, Abstain = 0).

**Yes:** Commissioner Stewart, Commissioner Draper, Commissioner Willard.

**No:** Chair Stone, Commissioner Allen.

# **11. Manager's Report**

## **1. Building Construction / Building Maintenance Projects**

**a. Lincoln County Detention Center:** The Manager met with the architect and Detention Center personnel, including medical doctor providing services to LCDC, to discuss potential modification of the Medical facilities. Lincoln County received \$162,000 in Capital Appropriations to offset project costs. The Manager will provide modification options for Commissioner input and direction.

**b. Hondo Fire Station:** The Manager along with Finance, Planning, and Emergency Operations staff met with members of the Hondo Fire Station, the architect, and the general contractor regarding the new Hondo Fire Station. The Manager reminded the new station site was located on County property at the Hondo Senior Center. The Manager stated planning was focused on aligning fire station needs with available funds.

**c. County Extension Service:** Per Commission direction, the Manager requested additional cost estimates to re-floor the entire space occupied by the County Extension Service. The Manager will provide estimates for consideration once all quotes were received.

**2. Senior Center Update:** The Manager reported personnel from the Southern District of the Area Agency on Aging conducted an audit of Lincoln County's Zia Senior Center Programs. The Manager reported the Agency offered high praise for Program Director Renee Montes's work and stated plans to provide a written commendation for Ms. Montes. The Manager stated the Agency will provide a full audit report in the next several weeks.

## **3. Calendar of Events:**

- a.** March 16, 2016 – Fair Board Meeting
- b.** March 15 - 17, 2016– Cibola National Forest Shared Stewardship Workshop
- c.** March 17, 2016 –Socorro County Detention Center (Ribbon Cutting Ceremony & Grand Opening)
- d.** March 17, 2016 – Lincoln County Historic Preservation Board
- e.** March 25, 2016 – County Offices Closed: Good Friday
- f.** March 29, 2016 – State Auditor Training – Ruidoso
- g.** March 29 – 31, 2016 – Cibola National Forest Draft Forest Plan Development Retreat

## **4. Departmental Updates:**

**a. Joel Bonnell, Road Superintendent** discussed ongoing road work including screening operations utilizing the rented screening plant. Mr. Bonnell stated plans to use screened material on Fort Lone Tree Road. Mr. Bonnell reported work to apply base coarse on Bonito Road was completed for utilization of the associated Capital Outlay Appropriation. Mr. Bonnell reported the Road Department hired a new Operator II to fill a vacant position. Mr. Bonnell also discussed the shallow lying gas line on Bogle Road which prevents adequate maintenance. Mr. Bonnell discussed the need for some type of jetter-rodder equipment to assist with culvert cleaning and reported two dump trucks were out of service.

Commissioner Stewart discussed the County's ongoing problems with maintenance of Bogle Road due to the presence of the very old high pressure transmission line.

Attorney Morel recalled the issue and offered to research the history and options for later discussion.

Chair Stone questioned the Road Department's progress on creation of a test or examination for operator qualification as an Operator IV.

Mr. Bonnell stated he had recently identified a set of skills for testing and continued to work with the County Manager and Human Resources on the project.

b. **Renee Montes, Senior Services Director** informed the recent assessment of senior facilities in Capitan and Ruidoso Downs centers went well. Ms. Montes stated new policies were forthcoming from the Metro Area on Aging regarding unit counts for different types of services and also regarding the cost separation of federal and local dollars per unit. Ms. Montes stated she would work with Punkin Schlarb, Finance Director on the new audit requirements. Ms. Montes also reported the new Carrizozo Senior Center was under construction and on target for a completion date in early June.

c. **Curt Temple, Planning Director** stated the Village of Ruidoso had approved the Memorandum of Understanding with Lincoln County for utilization of the Village's transfer station by the County's solid waste contractor. Mr. Temple noted work on the new Nogal Fire Station was continuing and the construction site for the new Hondo Fire Station would require some core sampling prior to any ground work.

d. **Joe Kenmore, Director Office of Emergency Services** reported on OES responses to several fires in the County which were primarily caused by controlled burns and other human actions. Mr. Kenmore stated he would attend the annual Bataan Memorial Death March at White Sands Missile Range on March 19, 2016 to assist with medical communications. Mr. Kenmore stated the event typically attracts over 5,000 participants.

e. **Punkin Schlarb, Finance Director** stated an online process was developed to accept credit card payments for Solid Waste Services with plans to add the information to the website and begin accepting payments on April 1, 2016. Ms. Schlarb stated the Finance Department would host a workshop to re-familiarize county employees and volunteers with the Purchase Order process and associated procurement requirements. Ms. Schlarb stated preliminary budget interviews were scheduled with the various departments.

Chair Stone recessed the Regular Meeting at 11:00 AM and reconvened at 11:07 AM.

#### **14. Lincoln County Medical Center: Discussion / Potential Action**

Ms. Taylor reminded of prior approval during the March 10, 2016 Special Meeting of the hospital development option to build a new hospital for a total estimated cost of \$35.76 million. Ms. Taylor noted this approval did not encompass the necessary relocation of current Emergency Medical Services operations and facilities.

Ms. Taylor presented details regarding the additional items listed for consideration during today's meeting.

- a. Issue Contract to Dekker/Perich/Sabatini for partial or full design of hospital

Ms. Taylor stated the revised estimate for the full architectural design of a new hospital was \$1,646,534 or as an alternative the estimate for graphic design only was \$83,000.

- b. Issue Contract to Dekker/Perich/Sabatini for design of Emergency Services relocation

Ms. Taylor stated the revised estimate for the full architectural design for the Emergency Medical Services relocation was \$126,173 with an estimate for graphic design of \$6,500.

Ms. Taylor informed Dekker/Perich/Sabatini had incurred direct costs in the amount of \$14,598 associated with the development of the "Options Presentation" provided during the March 10, 2016 Special Meeting. Ms. Taylor requested approval of payment for these services.

- c. Appraisal Report – Fair Market Value

Ms. Taylor stated the VMG Health Appraisal Report for the Lincoln County Medical Center campus including a new hospital facility was completed and therefore lease negotiations with Presbyterian Health Services could commence immediately.

- d. Professional Services Contract – Newpoint Healthcare Advisors: Joe Lupica

Ms. Taylor stated Joe Lupica of New point Healthcare had presented a proposal for an additional Professional Services Contract with his firm to assist with lease negotiations.

**Motion:** Authorize the County Manager and County Attorney to negotiate a new contract with Newpoint Healthcare Advisors for new deliverables not to exceed \$45,000, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

Commissioner Stewart stated a desire to view specifics of the contract prior to a vote.

**Vote:** Motion passed by roll call vote (summary: Yes = 4, No = 1, Abstain = 0).  
**Yes:** Chair Stone, Commissioner Allen, Commissioner Draper, Commissioner Willard.  
**No:** Commissioner Stewart.

**Motion:** Authorize payment of \$14,598 to Dekker/Perich/Sabatini for direct costs related to the "Options Presentation", **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

**Vote:** Motion carried by unanimous vote (summary: Yes = 5).  
**Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

**Motion:** Authorize \$83,000 for the graphic design of a new Emergency Medical Services facility, **Action:** Approve, **Moved by** Commissioner Draper, **Seconded by** Commissioner Willard.

Chair Stone suggested approval to develop a design was premature at this time.

**Vote:** Motion failed by roll call vote (summary: Yes = 2, No = 3, Abstain = 0).  
**Yes:** Commissioner Stewart, Commissioner Draper.  
**No:** Chair Stone, Commissioner Allen, Commissioner Willard.

**12. Resolution 2015-36 Participation in Capital Outlay Program Administered by New Mexico Department of Transportation-Bonita Lake Road**

Ms. Taylor reminded Lincoln County received a Capital Appropriation from the State of New Mexico in July of 2014 in the amount of \$25,000. Ms. Taylor stated the appropriation was dedicated to repair work on Bonito Road and the repairs were recently completed by the Road Department. Ms. Taylor stated the Capital Appropriation Project Agreement with the State required the County adopt a Resolution in support of the project prior to seeking reimbursement.

**Motion:** Adopt Resolution 2015-36, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

**Vote:** Motion carried by unanimous vote (summary: Yes = 5).  
**Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

**SEE EXHIBIT B:** Copy of Resolution 2015-36 is attached hereto in reference thereto made a part hereof.

**15. Approval or Disapproval of Safety Net Care Pool & Indigent Health Care Claims**

Mr. Annala presented the Safety Net Care Provider Pool claims for approval. Mr. Annala processed 18 claims with 16 recommended for approval and 2 recommended for disapproval for a monthly authorization of \$31,448. Mr. Annala stated approval of the claims would result in a total approval to date of Safety Net Care Pool claims for Fiscal Year 2015-2016 of \$163,663 or a monthly average of \$18,185.

Mr. Annala presented the Indigent Health Care Payments request for the month. Mr. Annala processed 8 claims with 8 claims recommended for approval and none for disapproval for a total payment this month of \$20,998.87. Mr. Annala stated approval of the claims would result in a total expenditure to date for IHC claims for Fiscal Year 2015-2016 of \$81,480 or a monthly average of \$6,831.13. Mr. Annala stated based on the current monthly average he anticipated an annual expenditure of \$81,974 for the current fiscal year.

**Motion:** Approval and denial of the claims as indicated for the Safety Net Care Pool and Indigent Health Care as recommended, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

**Vote:** Motion carried by unanimous vote (summary: Yes = 5).



Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

**SEE EXHIBIT C:** Copies of the Safety Net Care Pool and Indigent Health Care Payments are attached hereto in reference thereto made a part hereof.

**22. Approval of Lodger's tax Applications:**

- a. App No. 0007: Carrizozo Music  
Request: \$2,500  
Date(s) of Event: March-October 2016 (7 concerts, 5 schools);  
Brannen/Carrizozo Works, Inc.  
LTC Approved: \$2,500
- b. App No. 0008: AspenCash Motorcycle Rally  
Request: \$5,000  
Date(s) of Event: 5/19-22/16;  
LTC Approved: \$4,000
- c. App No. 0012: Golden Aspen Rally  
Request: \$5,000  
Date(s) of Event: 9/14-18/16 Presenter: Patric Pearson  
LTC Approved: \$5,000
- d. App No. 009: Lincoln County Art Loop Studio Tour  
Request: \$3,600  
Date(s) of Event: 7/1-3/16; Presenter: Janet Alexander  
LTC Approved: \$3,000
- e. App No. 0010: Alto Artist Studio Tour  
Request: \$3,500  
Date(s) of Event: 8/ 4-7/16; Presenter: Stephen Sabo  
LTC Approved: \$3,000
- f. App No. 0011: Smokey Bear Day  
Request: \$10,841  
Date(s) of Event: 5/6-/16; Presenter: Bennie Long  
LTC Approved \$10,84

**Motion:** Approve the expenditure of \$28,341 as recommended by the Lodger's Tax Committee,  
**Action:** Approve, Moved by Commissioner Draper, Seconded by Commissioner Allen.  
**Vote:** Motion carried by unanimous vote (summary: Yes = 5).  
**Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

**16. New Medical Provider #54, WellCare, Inc. DBA Encompass Home Health of New Mexico**

Scott Annala, Indigent Health Care Administrator informed Lincoln County currently had a contract for home health services with Ruidoso Home Health and Hospice. Mr. Annala explained Ruidoso Home Health and Hospice was acquired by WellCare, Inc. d/b/a Encompass Home Health of New Mexico. Mr. Annala stated the name change necessitated a new contract for payment for services. Mr. Annala stated the contracted services provided were unchanged and this type of service had an annual cap of \$3000 per person.

**Motion:** Approve Indigent Health Care Provider Agreement #54 with Wellcare, Inc., **Action:** Approve, Moved by Commissioner Stewart, Seconded by Commissioner Allen.  
**Vote:** Motion carried by unanimous vote (summary: Yes = 5).  
**Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

**17. Solid Waste Collection Services – Update**

**a. Solid Waste Billing/MOU with the Village of Corona**

Attorney Morel provided the latest draft of the proposed Memorandum of Understanding with the Village of Corona including an Assessor's Ownership Map of the proposed service area. Attorney Morel explained under the conditions of the MOU the Village of Corona would continue to provide and bill for solid waste services to Lincoln County residents within the defined area who historically received solid waste services from the Village of Corona.

Attorney Morel explained the MOU additionally entitled the Village of Corona to set fees, bill and charge for services; defined the utilization of Village of Corona solid waste services as a voluntary choice of residents in the defined area; and defined the MOU as effective for one year with automatic renewal pending a 90 notice by either party of the intent to terminate. Attorney Morel stated the MOU precluded the subcontracting of services to a third party but stated Teri Racher, Corona Municipal Clerk informed the Village subcontracts for transportation of waste to Torrance County.

**Motion:** Approve the Memorandum of Understanding with the Village of Corona to include the subcontracting for transportation of waste to Torrance County, **Action:** Approve, Moved by Commissioner Stewart, Seconded by Commissioner Allen.  
**Vote:** Motion carried by unanimous vote (summary: Yes = 5).  
**Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

Chair Stone recessed the Regular Meeting at 11:56 AM and reconvened at 12:10 PM.

**26. Executive Session Pursuant to the Open Meetings Act: Discussion of all Threatened and/or Pending Litigation Section 10-15-1, Sub-Paragraph H.(7); and Discussion of the purchase, acquisition or disposal of real property or water rights by the public body, Section 10-15-1, Sub-Paragraph H.(8).**

**Motion:** To close the meeting for the purposes of an Executive Session to discuss Threatened and/or Pending Litigation pursuant to the Open Meetings Act, Section 10-15-1, Sub Paragraph H.(7) and the purchase, acquisition or disposal of real property or water rights by the public body, Section 10-15-1, Sub-Paragraph H.(8) and as follows:

**New or Updated Matters since last report \***

1. *Cooper, Gale and DeBaca County News v. County of Lincoln, Sheriff of Lincoln County, et al.* D-1329-CV-2007-01364. Suit filed: October 15, 2007. Verified Complaint for Declaratory Judgment Ordering Production of Certain Records and Information. Hearing took place Dec. 18, 2013, and Stipulated Judgment was entered June 4, 2014 in favor of Ms. Cooper. Ms. Cooper filed an appeal June 10, 2014, and Judge John F. Davis was assigned Aug. 3, 2014. Joint Answer Brief of Defendants-Appellees' Steven Sederwall and Rick Virden with Request for Oral Argument filed in the Court of Appeals Sept. 28, 2015. Case was submitted to a panel of three

judges for decision on February 1, 2016.

2. *Water Rights Protests: New Mexico State Engineer Hearing Numbers: 14-039 and 14-041.* Protests of Applications 01300-1, 01300-2, 01300-3, 0826-2 into 0275 *et. al.* and H-272 *et al* (T) and H-50-1 into H-272 *et. al.* (T) filed July 15, 2013 pertaining to movement / transfer of water rights from the Hondo Valley to the Village of Ruidoso and the City of Ruidoso Downs. Docketing Order filed Sept. 18, 2014. Kelly Cassels/Sanders, Bruin, Coll & Worley, P.A. has been retained by the County, entered his appearance Sept. 22, 2014 and has responded in behalf of the County.

3. *Wesmax, Ltd. V. Paul Baca, Lincoln County Assessor D-1226-CV-2014-00188* Appeal of the Final Order from Lincoln County Valuation Protest Board. Appeal filed Oct. 8, 2014. Case assigned to Basham & Basham/Dwyer. Record of Appeal and Transcript of Proceedings was filed Oct. 23, 2014.

4. *Edward Rider/Brennon Moorhead v. The Board of County Commissioners, Brack Rains, Matt Christian, Robert Shepperd D 1226 CV 2015-00103* Complaint for Damages and Summons received June 15, 2015. Complaint alleges damages while Sheriff's Deputies were executing a search warrant at 132 Birch Street, Ruidoso. Removed to Federal Court July 7, 2015. Order Granting Defendants' Motion to Dismiss Defendants Lincoln County Board of Commissioners and Defendant Robert Shepperd, as no claims remain against them, filed Oct. 7, 2015. Second Amended Civil Complaint filed Nov. 4, 2015.

5. *A. Preston, DeAnna v. County of Lincoln, Sheriff Robert Shepperd D-1226-CV-2015-00112* Notice of Appeal of Post Disciplinary Hearing filed June 10, 2015. Amended Complaint alleging Civil Rights Violation and Gender Based Discrimination filed on Oct. 13, 2015. Removed to Federal Court Nov. 12, 2015. Order Granting Defendant's Motion for Protective Order and stay of discovery filed January 29, 2016.

*B. Preston, DeAnna: Notice of Charge of Discrimination* submitted to the U.S. Equal Employment Opportunity Commission July 21, 2015. Mediation was Oct. 29, 2015. Plaintiff requested a Right to Sue from the EEOC on January 29, 2016.

6. *\*Valle del Sol v. Naron, et. al. D-1226-CV-2015-00166* Complaint to Enforce and Collect Upon Promissory Note and to Foreclose Mortgage upon Real Property filed Sept. 24, 2015. Plaintiff's Motion for Summary Judgment was filed December 2, 2015. Motion Hearing took place January 19, 2016. Proposed Motion for Summary Judgment approved as to form February 5, 2016. Motion Hearing took place February 15, 2016 where Judge Bryant gave the parties until March 15, 2016 to resolve or Summary Judgement will be entered.

7. *\*Orlando Montes v. Pinnacle Propane, LLC, Allen Sultemeier, County of Lincoln, Lincoln County Fair Association, John Does; D-1226-CV-2016-00006* Complaint for Wrongful Death, Statutory Tort, Violation of Constitutional Rights (Due Process), Negligence Per Se: Loss of Consortium, Negligent Infliction of Emotional Distress filed with the 12<sup>th</sup> Judicial District Court Jan. 19, 2016. Incident occurred at Lincoln County Fairgrounds July 2, 2015. County was served with Complaint on January 25, 2016. The case was removed to Federal Court Feb. 22, 2016.

8. *\*Walter Ray Seidel / Brian Ray Seidel v. Anthony Manfredi, Lincoln County Sheriff Department M-32-CV-2016-00036* Civil Complaint filed March 9, 2016 alleging personal and property damage.

**Lincoln County Ordinance Violations:**  
**Alan P. Morel: 12<sup>th</sup> Judicial District Attorney's Office**  
**Special Prosecutor**

9. *\*State of New Mexico v. Kimberly Connor M 30 MR 2015-00205* alleged violation of Lincoln County Ordinance 2008-08: Dogs Running at Large. Order Granting Defendant's Directed Verdict filed February 11, 2016.

10. *\*State of N.M. v. Blaylock, Gregory M-30-MR-2016-00016* alleged violation of Lincoln County Ordinance 2014-04 Contraband in LCDC. The Non-Traffic citation was filed in the Magistrate Court on February 10, 2016. A misdemeanor arraignment was held on February 12, 2016 at which time the Defendant pled "Not Guilty." The Defendant is represented by the Public Defender's Office. A Pre-Trial Hearing is scheduled for Tuesday, March 29, 2016 at 9:00 a.m. on a Trailing Docket before Judge Mickie L. Vega.

11. *\*State of N.M. v. Parks, Nicole M-30-MR-2016-00010* alleged violation of Lincoln County Ordinance 2008-08 Dogs Running At Large. The Non-Traffic citation was filed in the Magistrate Court on January 15, 2016. A misdemeanor arraignment was held on January 17, 2016 at which time the Defendant pled "No Contest." A Sentencing Hearing is scheduled for Tuesday, March 22, 2016 at 9:00 a.m. on a Trailing Docket before Judge Mickie L. Vega.

**Tort Claims Notices Received or Threatened**

**2016**

**Rains, Bonnie** – Tort Claim Notice received January 18, 2016 alleging failure of the County of Lincoln to maintain road surfaces during snow or ice conditions.

**Brazel, Stephanie** – Tort Claim Notice received January 20, 2016 alleging injuries incurred due to Claimant stepping in an alleged uncovered water meter hole at 2801 Sudderth Drive, Ruidoso, NM.

**Seldel, Walter R., Jr.** – Tort Claim Notice received January 26, 2016 regarding a motor vehicle accident involving Claimant and a Lincoln County Sheriff's vehicle.

**Hill, Walter** – Tort Claim Notice received March 8, 2016 via emailed correspondence from Mr. Hill alleging the unlawful disclosure of confidential information from Mr. Hill's Lincoln County personnel file.

## **2015**

**Cherry, Doris** – Tort Claim Notice posted in Lincoln County News Jan. 1, 2015 stating possible Civil Rights Violation lawsuits regarding alleged Americans with Disabilities Act non-compliance in remodeling the Lincoln County Courthouse buildings.

**McDaniel, Carl** – Tort Claim Notice received Jan. 23, 2015 from Attorney John Sugg alleging violation of the Unfair Trade Practices Act and engaging in unfair or deceptive trade practices and/or unconscionable trade practices by GSWA.

**UNM Hospital-Prins, Chad** – Tort Claim Notice received Feb. 26, 2015 in which UNM Hospital seeks reimbursement of expenses incurred while Lincoln County Detention Center inmate Prins was on furlough.

**Sehorn, Sean M.** – Tort claim Notice received March 2, 2015 from Attorney Gary Mitchell alleging Lincoln County Detention Center failed to provide adequate medical treatment during inmate Sehorn's incarceration.

**Lavin, Erica L. and Rathgeber, Jack** – Tort Claim Notice received March 2, 2015 from Attorney Gary Mitchell alleging Constitutional Rights were violated resulting in wrongful termination.

**Hanley, Constance** – Tort Claim Notice received March 20, 2015 from Attorney John Sugg alleging violations of 42 USC section 1983, malicious prosecution, failure to investigate, defamation of character, libel and abuse of process.

**Capitan Iron Mine through A. Blair Dunn** – Threatened Litigation on April 1, 2015 against the County of Lincoln should Lincoln County require Capitan Iron Mine comply with Lincoln County Mine Ordinance 2009-01.

**Chavez, Billy** – Ordinance Violation: 2009-03 Regulating Refuse, Solid Waste and Litter in the County. March 10, 2015 certified letter mailed to Mr. Chavez giving him 30 days to dispose of debris on his property at 142 White Cat Road, San Patricio (Section 26, Township-10S, Range 16E, tract of land lying in the NE 4SE4). April 10, 2015 the property was inspected and noted no progress had been made.

**Culp, Susan v. LCMC/Lincoln County**: Tort Claim Notice received May 4, 2015 from Attorney Katherine Channing Roehl/Roehl Law Firm alleging medical malpractice, negligent supervision, negligent credentialing by staff, administrators and doctors at LCMC on or about March 3, 2015 during Ms. Culp's gall bladder removal surgery.

**Reyes, Roberto** – Tort Claim Notice received May 15, 2015 from Attorney Timothy White/Valdez White Law Firm alleging illegal seizure, illegal search, illegal imprisonment and wrongful conduct of the Lincoln County Sheriff's Department.

**Torres, Leopoldo**: Tort Claim Notice received June 4, 2015 from inmate Torres alleging inmate-initiated attack on inmate Torres at Lincoln County Detention Center.

**Wallace, Stephen**: Tort Claim Notice received June 11, 2015 from Attorney Gary Mitchell alleging deprivation of Constitutional rights due to false incarceration at Lincoln County Detention Center without proceeding with a timely extradition.

**Rodriguez, Victor** – Tort Claim Notice received July 13, 2015 from Attorney W. Chris Nedbaek alleging hostile treatment from fellow employees while employed at Lincoln County Detention Center.

**Prudencio, Fabian and Corinne** – Tort Claim Notice received July 24, 2015 from Attorney Daniel P. Ulibarri alleging negligence, personal injury, spoliation, indemnification and property damage against the County of Lincoln.

**Yates, Barbara** – Verbal Threat against the County issued July 21, 2015 due to ongoing flooding at her private property.

**Davis, Jack and Rema** – Verbal Threat against the County issued July 21, 2015 due to ongoing flooding at their private property.

**Capitan Iron Mine** – Tort Claim Notice received Sept. 24, 2014 via email from A. Blair Dunn, alleging County trespass on private property.

**L. Phillip Onsrud** – Tort Claim Notice received Nov. 3, 2015 via email alleging lack of medical care while incarcerated in Lincoln County Detention Center.

**Brown, Shelly** – Tort Claim Notice received December 31, 2015 alleged failure of the County of Lincoln to maintain road surfaces during snow or ice conditions.

## **2014**

**Ramos, Aaron** – Tort Claim Notice received from Mr. Ramos March 18, 2014 alleging his rights were violated during incarceration at Lincoln County Detention Center.

**Millerden, Kenneth and Anita** – Tort Claim Notice received May 9, 2014 from Attorney Victor F. Poulos alleging negligence from staff at Lincoln County Medical Center during prepartum care for their infant son.

**Ogden, John D** – Tort Claim Notice received May 26, 2014 alleging mistreatment while incarcerated at Lincoln County Detention Center on March 11, 2014.

**Rounds, Christopher** – Tort Claim Notice received June 4, 2014 alleging being held in Lincoln County Detention Center without being advised of his charges.

**Herbert, Crystal** – Tort Claim Notice received June 23, 2014 from Attorney Matthew Coyte/Coyte Law alleging false imprisonment, due process violations, unlawful detention of a minor, emotional distress.

**Class Action** – Tort Claim Notice received June 23, 2014 from Attorney Ryan Villa/Cooper Law Firm alleging false imprisonment, false arrest, deprivation of rights at Lincoln County Detention Center that arise with immigration and Customs Enforcement charges.

**Atwell, Stacey** – Tort Claim Notice received June 25, 2014 alleging unlawful seizure of her two minor children during a request for a deputy to assist in keeping the peace.

**McGarry, Sean** – Tort Claim Notice received July 25, 2014 from Attorney S. Doug Jones Witt alleging wrongful arrest, false imprisonment, malicious prosecution, intentional or negligent infliction of emotional distress, abuse of process, wrongful termination and retaliatory discharge regarding discharge from the Capitan Police Department.

**Ramos, Aaron** – Tort Claim Notice received August 7, 2014 alleging lack of Due Process for inmates at Lincoln County Detention Center.

**Lambert, David and Bonnie** – Tort Claim Notice received Sept. 8, 2014 from Attorney W. Chris Nedbalek alleging damage to Lambert property due to Mr. Rodney Bunsen using his own equipment to alter a platted County right of way without the authorization or knowledge of the County.

**Caughron, Brittany and Anderson, Amie** – Tort Claim Notice received Oct. 24, 2014 by Attorney W. Chris Nedbalek alleging overcrowding of Lincoln County Detention Center as a violation of 8<sup>th</sup> Amendment Rights.

**Ryen, Allen** – Tort Claim Notice received Oct. 27, 2014 by Attorney W. Chris Nedbalek alleging Mr. Ryen was exposed to unsanitary conditions at Lincoln County Detention Center.

**Inmate Group** – Tort Claim Notice received Oct. 27, 2014 by Attorney W. Chris Nedbalek alleging overcrowding and unsanitary conditions at Lincoln County Detention Center.

**Caughron, Brittany and Anderson, Amie** – Tort Claim Notice received Nov. 14, 2014 by attorney W. Chris Nedbalek alleging inadequate medical care and overcrowding at Lincoln County Detention Center.

**Inmate Group** – Tort Claim Notice received Nov. 14, 2014 by attorney W. Chris Nedbalek alleging overcrowding and unsanitary conditions at Lincoln County Detention Center.

**Long, Cameron** – Tort Claim Notice received Nov. 14, 2014 by attorney W. Chris Nedbalek alleging mistreatment by an Officer with Adult Probation and Parole.

**McClarnon, Brian** – Tort Claim Notice received Nov. 14, 2014 by attorney W. Chris Nedbalek alleging violations of U.S. Constitutional Amendment rights.

**Diana Martwick, 12<sup>th</sup> Judicial District Attorney** – Tort Claim Notice received Nov. 25, 2014 alleging lack of adequate office space provided by the County of Lincoln.

**Inmate Group** – Tort Claim Notice received Dec. Dec. 22, 2014 by attorney W. Chris Nedbalek alleging inmates were mistreated at Lincoln County Detention Center.

## **2013**

**Harrisburg Documents**– Attempts to recover Lincoln County documents illegally taken from the County. County Clerk Rhonda Burrows has been in contact with Harrisburg, PA in recovery efforts.

**Action:** Approve, Moved by Commissioner Stewart, Seconded by Commissioner Allen.

**Vote:** Motion carried by unanimous roll call vote (summary: Yes = 5).

**Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

Chair Stone recessed the Regular Meeting and convened the Closed Session at 12:11 PM.

Chair Stone adjourned the Closed Session and reconvened the Regular Meeting at 1:06 PM.

Commissioner Willard attested that matters discussed in the closed meeting were limited to those specified in the motion for closure or in the notice of separate closed meeting.

Chair Stone recessed the Regular Meeting and convened the Public Hearing at 1:07 PM.

**23. 1:00 P.M.: Public Hearing to consider Lincoln County Ordinance No. 2016-01:**



An Ordinance Providing For The Efficient And Sanitary Collection Of Solid Waste In Lincoln County; Providing For Mandatory Disposal And Assessment Of Fees; Providing A Penalty For Violation Of The Ordinance; And Repealing Ordinance No. 2015-3 And Repealing Ordinance 1993-07

Alan Morel, County Attorney detailed the proposed changes to the Ordinance including new language and revisions. Attorney Morel stated adoption of the proposed Ordinance would repeal both Ordinance 2015-3 and Ordinance 1993-07. Attorney Morel explained Ordinance 1993-07 had established the \$5.00 late fee per quarter for solid waste collection and Ordinance 2016-01 would provide for the subsequent establishment of fees and costs by Resolution.

Attorney Morel noted deletions included references to Greentree Solid Waste Authority and clarified Lincoln County's assumption of these services. Attorney Morel directed attention to new language to provide for establishment of fees for services and for delinquent payments by Resolution with appropriate public input.

Attorney Morel stated other changes defined the scope of the provision of services with the exemption of municipalities within the County as well as "lawfully created Water and Sanitation Districts". Attorney Morel noted new language was added to define the "responsible party" as accountable for any legal fees and attorney fees resulting from the filing and prosecution of any liens filed for the collection of past due fees owed to the County.

Attorney Morel discussed the new language added to "Exception Procedures" to reflect the exclusion from billing of any owner of property whose solid waste services were provided by another governmental entity with whom the County of Lincoln had an executed Memorandum of Understanding. Attorney Morel reminded there were two other exemptions from billing, the "300 Acre" exemption and the "Uninhabitable" exemption, and noted the forms for application for exemptions were attached as Exhibits to the proposed Ordinance.

Chair Stone questioned the process to determine whether premises were "Uninhabitable".

Attorney Morel stated the Application for Waiver required the applicant to state reasons as to why the premises were uninhabitable.

Commissioner Draper also questioned who was responsible for reviewing Applications for Waiver and making a final determination.

Paul Baca, Assessor stated he developed a form for County Appraisers to determine "habitability" based on several factors such as the presence of doors and windows or whether utilities were present and connected. Mr. Baca stated appraisers would take photos and do a thorough evaluation of the buildings before recommending approval of waivers.

Commissioner Draper questioned if the Ordinance should include specific language defining the Assessor as responsible for determination of "Uninhabitably".

Attorney Morel suggested defining the obligation as the "governing body" was sufficient without naming a particular office or person.

Commissioner Allen remarked on the current process of evaluation by the Assessor's Office as advantageous to property owners not only for reviewing solid waste billing exceptions but also for reassessment of valuation of those properties.

Linda Phillips, reported the assessments conducted by the Assessor's office to date were in agreement with property owner requests.

Mr. Baca stated the buildings reviewed to date were obviously not habitable and informed he reviewed all reports from the appraisers prior to providing a recommendation to the Solid Waste Billing Clerk.

Commissioner Draper questioned the inclusion of references to commercial businesses since the County was not currently providing solid waste collection services for businesses.

Attorney Morel stated businesses within the County were subject to the Ordinance and therefore required to properly dispose of solid waste. Attorney Morel clarified in the proposed Ordinance commercial businesses were not subject to a specific County fee and were allowed to contract with a provider other than the County.

Chair Stone requested public comment and hearing none, recessed the Public Hearing and reconvened the Regular Session at 1:27 PM.

**Motion:** Adopt Ordinance 2016-01 as amended, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Willard.

**Vote:** Motion carried by unanimous roll call vote (summary: Yes = 5).

**Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

**SEE EXHIBIT D:** Copy of Ordinance 2016-01 is attached hereto in reference thereto made a part hereof.

**17. Solid Waste Collection Services – Update (continued)**

**b. Village of Ruidoso Adoption of Supply Agreement for Municipal Solid Waste Delivery to the Village of Ruidoso Gavilan Canyon Solid Waste Transfer Station**

Ms. Taylor stated the Village of Ruidoso unanimously approved the Supply Agreement at their March 8, 2016 Council Meeting. Ms. Taylor reminded the agreement allowed the County's solid waste contractor to haul dumpster and poly cart trash to the Ruidoso Transfer Station. Ms. Taylor stated as per the agreement the Village of Ruidoso will transport waste collected to the landfill for a cost of \$45 per ton.

**c. Status of Compactor Site Leases**

Ms. Taylor reported the lease agreement with Ranches of Sonterra for a compactor site was approved by that entity and was ready for final County signatures. Ms. Taylor anticipated a ruling on the County's application for the compactor site on US Forest Service property in the near future. Ms. Taylor stated efforts to secure other sites were ongoing.

**d. Status of Equipment**

Ms. Taylor reported purchase orders authorized for new dumpsters and poly carts were issued in the amount of \$23,056.

**18. Budget Preparation: Procedures & Timeline Approval FY 2016-2017**

Ms. Taylor presented a copy of a memorandum prepared for Elected Officials, Department Heads, and Volunteer Fire Departments outlining the proposed budget timeline and procedures. Ms. Taylor also provided a copy of the letter sent to external agencies for submission of requests for funding.

Ms. Taylor stated she would contact La Casa Buena Salud to determine the status of the clinic which discontinued services some time ago due to a lack of a medical provider.

Ms. Taylor also provided a copy of a letter received by all counties from Rick Lopez, Department of Finance Administration Director of the Local Government Division which included recommendations for consideration due to the recent economic downturn. Ms. Taylor noted Lincoln County was not as dependent on State Funding as some counties and also was not as directly affected by the economic downturn as other counties.

**Motion:** Approve the proposed budget timeline amending the Special Meeting to May 2, 2016, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Willard.

Commissioner Stewart proposed a letter to external agencies referencing the Department of Finance and Administration's (DFA) recommendation to discontinue the practice of providing funds to any nonprofit organization not tied to a legislative appropriation.

Ms. Taylor stated the letters to external agencies were mailed some time ago but offered to draft a letter responding to submissions and attach a copy of the letter from DFA.

Commissioner Willard protested the recommendations provided by Mr. Lopez as inappropriate for Lincoln County based on the lack of State Funding allocated to Lincoln County.

Commissioner Stewart suggested notification to external agencies that unless a nonprofit has a specific function for which the County bears some type of responsibility such as the Humane Society, the County may consider DFA's recommendations.

Ms. Taylor noted as per prior protocol a verbal reminder was delivered during budget presentations informing the approval of any external agency requests would detract from the County's general budget normally reserved for conducting operations.

Chair Stone opined current financial conditions in the State of New Mexico were concerning and warranted the DFA recommendations. Chair Stone stated he was not advocating drastic cuts but suggested the County needed to exercise caution about future expenditures.

Commissioner Allen commented on the inevitable impact of the economic downturn related to oil production to Lincoln County. Commissioner Allen cited a potential decline in gross receipt tax revenues as a result of reduced tourism as an example.

Beverly Calaway, Treasurer reminded the Treasurer's office and Finance were always cautious and conservative in the projection of anticipated revenues for the fiscal year. Ms. Calaway stated while Lincoln County was typically financially conservative, she acknowledged and appreciated the recommendations offered by DFA.

**Vote:** Motion carried by unanimous vote (summary: Yes = 5).

**Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

#### **19. Day of Recognition for National Service – April 5<sup>th</sup> by Proclamation**

Ms. Taylor reported Judy G. Sarabia, Ruidoso Community Center RSVP Coordinator requested Lincoln County recognize by proclamation April 5, 2016 as the National Service Recognition Day.

**Motion:** Approve the Proclamation for Day of Recognition for National Service, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

**Vote:** Motion carried by unanimous roll call vote (summary: Yes = 5).

**Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

#### **20. Consideration/Approval of Memorandum of Understanding between the City of Alamogordo and Lincoln County – Clarifying & Resolving and Apparent ambiguity in Relation to Severance Tax Bond Project Services Number STB13A**

Ms. Taylor stated the City of Alamogordo received a Capital Outlay Appropriation in the amount of \$74,000 to plan, design, renovate, construct and equip watershed restoration and improvements to roads, facilities, and campgrounds in the Bonito Lake watershed in Lincoln County. Ms. Taylor stated based on the title of the award the Department of Finance's Local Government Division mistakenly assigned the award to Lincoln County.

Ms. Taylor stated the Local Government Division recommended Lincoln County and the City of Alamogordo enter into a Memorandum of Understanding (MOU) for allocation of funds to the City of Alamogordo. Ms. Taylor stated the MOU also assigned all responsibilities for administration of the funding to the City of Alamogordo.

**Motion:** Approve the Memorandum of Understanding with the City of Alamogordo for the Bonito Lake Project Service number STB13A, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

**Vote:** Motion carried by unanimous vote (summary: Yes = 5).

**Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

#### **21. Consideration/Approval of Contract to Provide Detention Services to the Office of Justice Service, Bureau of Indian Affairs**

Ms. Taylor presented a request and proposed contract from the Bureau of Indian Affairs (BIA) for the provision of housing and services for BIA inmates. Ms. Taylor noted the contract specified a daily rate of \$53.94 and was for adult inmates only. Ms. Taylor stated the total contract award was a maximum of \$75,996.00.

Ms. Taylor noted the average daily inmate count at the Lincoln County Detention Center (LCDC) was currently well below the maximum capacity of 144 inmates. Ms. Taylor stated LCDC required full staffing regardless of daily population and stated the additional revenues were important to fund operations.

Ms. Taylor stated the current negotiated rate with Emerald Corrections for management of LCDC was \$56.89 per prisoner with a scheduled increase to \$58.00 in May of this year. Ms. Taylor discussed the options to address the rate differential including negotiation of a higher rate with BIA, negotiation with Emerald for acceptance of the BIA rate, or County subsidy to meet the contracted rate of \$58.00 with Emerald.

Attorney Morel discussed the potential need to refuse BIA prisoners should LCDC reach maximum capacity, the requirement for the facility to meet Federal Prevailing Wage Rates for employees, and other contractual obligations. Attorney Morel recommended the transfer of all obligations and deliverable requirements contractually to Emerald Corrections.

**Motion:** Authorize an agreement with the Bureau of Indian Affairs for housing prisoners subject to negotiations with Emerald to include Emerald's acceptance of BIA reimbursement rates, assurance of payment of Federal Prevailing Wage Rates; assumption of all other contract requirements; and clarification of contractual language naming a particular warden, **Action:** Approve, Moved by Commissioner Stewart, Seconded by Commissioner Draper.

There was a general discussion regarding the current process for housing BIA prisoners, associated reimbursement rates, and prisoners who have concurrent Tribal and County charges.

Commissioner Draper questioned whether Native Americans who committed crimes within the County would qualify under this contract for BIA reimbursement.

Attorney Morel stated he would research the question.

**Vote:** Motion carried by unanimous vote (summary: Yes = 5).

**Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

**24. Authorization to Schedule Public Hearing to Consider Other Outdated or New Lincoln County Ordinance.**

No action taken

**25. Consideration of Appointments and Removals from Boards/Commissioners /Committees:**

**a. Lodger's Tax Committee**

**Motion:** Appoint Sheri Rodgers to the Lodger's Tax Committee, **Action:** Approve, Moved by Commissioner Draper, Seconded by Commissioner Allen:

**Vote:** Motion carried by unanimous vote (summary: Yes = 5).

**Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

**27. Signing of Official Documents**

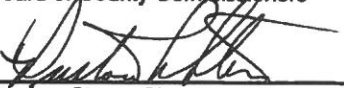
**28. Next meetings:**

- a. April 19, 2016 - Regular Commission Meeting
- b. May 2, 2016 - Preliminary Budget Commission Meeting

**29. Adjourn**

There being no further business to come before the Board of County Commissioners, Chair Stone adjourned the meeting at 2:15 PM.

County of Lincoln  
Board of County Commissioners

  
Preston Stone, Chair

  
Dallas Draper, Vice Chair

  
Elaine Allen, Member

  
Thomas F Stewart, Member

  
F Lynn Willard, Member

ATTEST:

  
Rhonda Burrows, County Clerk

April 19, 2016  
Date Approved

